

## UNITED STATES DISTRICT COURT

for the

Southern District of Mississippi

FILED  
JUL 01 2015ARTHUR JOHNSTON  
BY DEPUTY

United States of America )  
 v. )  
 Fahim Fadhl Mohammed Saleh ) Case No. 3:15-mj-140-LRA  
 )  
 )  
 )  
 )  
 )

Defendant(s)

## CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 30, 2015 in the county of Hinds in the  
Southern District of Mississippi, the defendant(s) violated:

## Code Section

## Offense Description

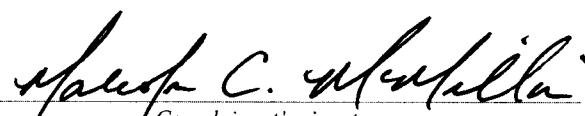
Title 18, United States Code,  
 Section 922(g)(5)(B)

The defendant, being an illegal alien, except as provided in subsection (y)(2),  
 has been admitted into the United States under a non-immigrant visa (as that  
 term is defined in section 101(a)(26) of the Immigration and Nationality Act (8  
 U.S.C. 1101(a)(26))), possessed a firearm or ammunition in or affecting  
 interstate commerce.

This criminal complaint is based on these facts:

See Attached Affidavit

Continued on the attached sheet.

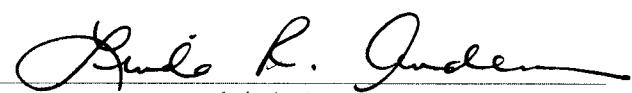
  
 Complainant's signature

Special Agent Malcolm C. McMillin

Printed name and title

Sworn to before me and signed in my presence.

Date: 07/01/2015

  
 Judge's signature

City and state: Jackson, Mississippi

Linda R. Anderson, U.S. Magistrate Judge

Printed name and title

## AFFIDAVIT

I, Malcolm C. McMillin, being duly sworn, hereby depose and state that:

I am Special Agent with Homeland Security Investigations (HSI). I have been employed in this capacity for over since 2003. Prior to this appointment, I was employed for nearly six (6) years as a Special Agent, with the United States Secret Service, and over five (5) years as an Agent with the State of Mississippi Department of Public Safety, Mississippi Bureau of Narcotics.

I am currently assigned to the Office of Homeland Security Investigations (HSI), Resident Agent in Charge, Jackson, Mississippi (RAC Jackson). I am statutorily empowered to investigate violations of criminal law relating to unlawful entry, employment, and physical presence in the United States, specific to the Immigration and Nationality Act and Title 8 of the Code of Federal Regulations.

I am further authorized to conduct investigations and inquiries with the purpose of determining alienage and removability as it relates to the Immigration and Nationality Act and related statutes and persons unlawfully in the United States.

The information contained in this affidavit is from my own investigation and from information obtained from other individuals employed by Homeland Security Investigations.

Fahim Fadhl Mohammed SALEH is a citizen and national of The Republic of Yemen, admitted to the United States on or about May 27, 2014, as a Non-Immigrant F-1 Student to attend classes at Jackson State University in Jackson, Mississippi.

According to Student Exchange and Visitor Information Systems (SEVIS) records, SALEH was terminated from the English as a Second Language (ELS) Program at Jackson State University on May 11, 2015, for failure to remain enrolled in ESL course work. According to termination remarks uploaded by Jackson State University, the ESL program “requires student to attend 20 hours of class per week. Student has missed over 144 hours of class this session.”

Based on SALEH’s termination from the program, ICE Headquarters, National Security Investigations Division, Counterterrorism Criminal Exploitation Unit (CTCEU) referred SALEH’s case to HSI Jackson to determine if SALEH was out of compliance with the terms and conditions of his admission.

On June 18, 2015, your affiant contacted the Designated School Official for Jackson State University to confirm that SALEH was no longer enrolled at the University. Your affiant received confirmation via electronic mail that SALEH had been terminated from the

English Learning program on May 11, 2015. The DSO further confirmed the last known address of 1401 Highway 80 East, Clinton, Mississippi, Apartment K-124.

On June 30, 2015, your affiant traveled to 1401 Highway 80 East, Clinton, Mississippi to attempt to locate SALEH at his last known address, Apartment K-124 at the Hunters Oak Apartments.

Your affiant knocked on the door and was greeted by an unknown male subject. Your affiant identified himself as a special agent with Homeland Security Investigations and advised the unknown subject that he (your affiant) was looking for Fahim SALEH. The male who answered the door indicated that he was Fahim SALEH. Your affiant asked SALEH if he was currently enrolled in classes as required by his admission. SALEH replied that he was enrolled at "Jackson" and subsequently clarified that he meant Jackson State University.

Your affiant advised SALEH that he had been advised that SALEH had been terminated from the program and was in fact no longer in compliance with the terms and conditions of his admission and was possibly subject to removal. Your affiant advised SALEH that he would be transported to HSI Jackson for processing and determination of custody.

SALEH lead your affiant to a bedroom located upstairs within apartment K-124 where he woke his roommate Yasser Salh ALFATA. ALFATA advised your affiant that SALEH was enrolled in classes at Jackson State University. Your affiant advised ALFATA that SALEH was not enrolled and had not attended classes in over six weeks.

Your affiant asked ALFATA to locate SALEH's passport and release it to HSI custody. ALFATA and SALEH were relocated to the downstairs area of the residence to allow SALEH to change clothes and to allow ALFATA to retrieve SALEH's passport.

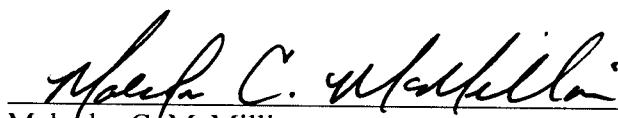
SALEH retrieved a pair of camouflaged shorts from the floor of the main living area of the residence (where he appeared to sleep). SALEH then attempted to walk into a downstairs bathroom located just off of the main living area.

Your affiant observed that the shorts appeared to be heavier and did not hang or drape as they should and removed the shorts from SALEH's possession. Your affiant immediately observed that the shorts were uncharacteristically heavy despite the belt. Your affiant then conducted an exterior touch search of the front right pocket of the shorts and felt what he believed based on prior training and experience to be a firearm.

Your affiant then observed a two tone semi-automatic pistol located in the front right pocket of the shorts which were removed from SALEH's possession. SALEH was immediately placed into custody and ALFATA was secured for officer safety purposes. The firearm was confirmed to be a Smith and Wesson Model SD40VE; .40 caliber, semi-automatic pistol, serial number: HFL2251. SALEH's wallet with various Identification documents were located in the same pants that the firearm was recovered from.

ALFATA and SALEH indicated that the firearm belonged to SALEH's brother who was at the time of the encounter out of the state of Mississippi. There were no other occupants present during the above encounter.

Based on the information set forth above, your affiant believes that there is probable cause to believe that Fahim Fadhl Mohammed SALEH violated Title 18, United States Code, Section 922(g)(5)(B). SALEH is non-immigrant, admitted to the United States, as an F-1 Student to attend Jackson State University, and he did possess a firearm (Smith and Wesson, Model SD40VE; serial number: HFL2251) at the time of the encounter, the firearm was loaded with fourteen rounds of ammunition in the weapon magazine. Said firearm has been transported in interstate and/or foreign commerce.

  
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Malcolm C. McMillin  
Special Agent, Immigration and Customs Enforcement

SWORN TO AND SUBSCRIBED before me on this, the 1<sup>st</sup> day of July  
2015.

  
\_\_\_\_\_  
United States Magistrate Judge